

ASSEMBLY BILL

No. 767

Introduced by Assembly Member Nakano

February 19, 2003

An act to amend Section 798.56 of the Civil Code, relating to mobilehomes.

LEGISLATIVE COUNSEL'S DIGEST

AB 767, as introduced, Nakano. Mobilehome parks: termination of tenancy.

Existing law defines and regulates the terms of a rental agreement for a mobilehome park. Existing law permits a mobilehome park tenancy to be terminated only for certain reasons, one of which is the conviction of the homeowner or resident for prostitution or a felony controlled substance offense if the act resulting in the conviction was committed anywhere in the mobilehome park, as specified.

This bill would add child molestation, elder abuse, arson, unlawful entry, discharging a firearm, assault, and vandalism resulting in damage exceeding \$400 to the types of crimes a conviction of which can result in the termination of a mobilehome park tenancy, as described above.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 798.56 of the Civil Code is amended to
2 read:
3 798.56. A tenancy shall be terminated by the management
4 only for one or more of the following reasons:

1 (a) Failure of the homeowner or resident to comply with a local
2 ordinance or state law or regulation relating to mobilehomes
3 within a reasonable time after the homeowner receives a notice of
4 noncompliance from the appropriate governmental agency.

5 (b) Conduct by the homeowner or resident, upon the park
6 premises, that constitutes a substantial annoyance to other
7 homeowners or residents.

8 (c) (1) Conviction of the homeowner or resident for
9 prostitution, *child molestation, elder abuse, arson, unlawful entry,*
10 *discharging a firearm, assault, vandalism resulting in damage*
11 *exceeding four hundred dollars (\$400),* or a felony controlled
12 substance offense, if the act resulting in the conviction was
13 committed anywhere on the premises of the mobilehome park,
14 including, but not limited to, within the homeowner's
15 mobilehome.

16 (2) However the tenancy may not be terminated for the reason
17 specified in this subdivision if the person convicted of the offense
18 has permanently vacated, and does not subsequently reoccupy, the
19 mobilehome.

20 (d) Failure of the homeowner or resident to comply with a
21 reasonable rule or regulation of the park that is part of the rental
22 agreement or any amendment thereto.

23 No act or omission of the homeowner or resident shall constitute
24 a failure to comply with a reasonable rule or regulation unless and
25 until the management has given the homeowner written notice of
26 the alleged rule or regulation violation and the homeowner or
27 resident has failed to adhere to the rule or regulation within seven
28 days. However, if a homeowner has been given a written notice of
29 an alleged violation of the same rule or regulation on three or more
30 occasions within a 12-month period after the homeowner or
31 resident has violated that rule or regulation, no written notice shall
32 be required for a subsequent violation of the same rule or
33 regulation.

34 Nothing in this subdivision shall relieve the management from
35 its obligation to demonstrate that a rule or regulation has in fact
36 been violated.

37 (e) (1) Nonpayment of rent, utility charges, or reasonable
38 incidental service charges; provided that the amount due has been
39 unpaid for a period of at least five days from its due date, and
40 provided that the homeowner shall be given a three-day written

1 notice subsequent to that five-day period to pay the amount due or
2 to vacate the tenancy. For purposes of this subdivision, the
3 five-day period does not include the date the payment is due. The
4 three-day written notice shall be given to the homeowner in the
5 manner prescribed by Section 1162 of the Code of Civil Procedure.
6 A copy of this notice shall be sent to the persons or entities
7 specified in subdivision (b) of Section 798.55 within 10 days after
8 notice is delivered to the homeowner. If the homeowner cures the
9 default, the notice need not be sent. The notice may be given at the
10 same time as the 60 days' notice required for termination of the
11 tenancy.

12 (2) Payment by the homeowner prior to the expiration of the
13 three-day notice period shall cure a default under this subdivision.
14 If the homeowner does not pay prior to the expiration of the
15 three-day notice period, the homeowner shall remain liable for all
16 payments due up until the time the tenancy is vacated.

17 (3) Payment by the legal owner, as defined in Section 18005.8
18 of the Health and Safety Code, any junior lienholder, as defined in
19 Section 18005.3 of the Health and Safety Code, or the registered
20 owner, as defined in Section 18009.5 of the Health and Safety
21 Code, if other than the homeowner, on behalf of the homeowner
22 prior to the expiration of 30 calendar days following the mailing
23 of the notice to the legal owner, each junior lienholder, and the
24 registered owner provided in subdivision (b) of Section 798.55,
25 shall cure a default under this subdivision with respect to that
26 payment.

27 (4) Cure of a default of rent, utility charges, or reasonable
28 incidental service charges by the legal owner, any junior
29 lienholder, or the registered owner, if other than the homeowner,
30 as provided by this subdivision, may not be exercised more than
31 twice during a 12-month period.

32 (5) If a homeowner has been given a three-day notice to pay the
33 amount due or to vacate the tenancy on three or more occasions
34 within the preceding 12-month period, no written three-day notice
35 shall be required in the case of a subsequent nonpayment of rent,
36 utility charges, or reasonable incidental service charges.

37 In that event, the management shall give written notice to the
38 homeowner in the manner prescribed by Section 1162 of the Code
39 of Civil Procedure to remove the mobilehome from the park within
40 a period of not less than 60 days, which period shall be specified

1 in the notice. A copy of this notice shall be sent to the legal owner,
2 each junior lienholder, and the registered owner of the
3 mobilehome, if other than the homeowner, as specified in
4 paragraph (b) of Section 798.55, by certified or registered mail
5 return receipt requested within 10 days after notice is sent to the
6 homeowner.

7 (6) When a copy of the 60 days' notice described in paragraph
8 (5) is sent to the legal owner, each junior lienholder, and the
9 registered owner of the mobilehome, if other than the homeowner,
10 the default may be cured by any of them on behalf of the
11 homeowner prior to the expiration of 30 calendar days following
12 the mailing of the notice, if all of the following conditions exist:

13 (A) A copy of a three-day notice sent pursuant to subdivision
14 (b) of Section 798.55 to a homeowner for the nonpayment of rent,
15 utility charges, or reasonable incidental service charges was not
16 sent to the legal owner, junior lienholder, or registered owner, of
17 the mobilehome, if other than the homeowner, during the
18 preceding 12-month period.

19 (B) The legal owner, junior lienholder, or registered owner of
20 the mobilehome, if other than the homeowner, has not previously
21 cured a default of the homeowner during the preceding 12-month
22 period.

23 (C) The legal owner, junior lienholder or registered owner, if
24 other than the homeowner, is not a financial institution or
25 mobilehome dealer.

26 If the default is cured by the legal owner, junior lienholder, or
27 registered owner within the 30-day period, the notice to remove
28 the mobilehome from the park described in paragraph (5) shall be
29 rescinded.

30 (f) Condemnation of the park.

31 (g) Change of use of the park or any portion thereof, provided:

32 (1) The management gives the homeowners at least 15 days'
33 written notice that the management will be appearing before a
34 local governmental board, commission, or body to request permits
35 for a change of use of the mobilehome park.

36 (2) After all required permits requesting a change of use have
37 been approved by the local governmental board, commission, or
38 body, the management shall give the homeowners six months' or
39 more written notice of termination of tenancy.

1 If the change of use requires no local governmental permits,
2 then notice shall be given 12 months or more prior to the
3 management's determination that a change of use will occur. The
4 management in the notice shall disclose and describe in detail the
5 nature of the change of use.

6 (3) The management gives each proposed homeowner written
7 notice thereof prior to the inception of his or her tenancy that the
8 management is requesting a change of use before local
9 governmental bodies or that a change of use request has been
10 granted.

11 (4) The notice requirements for termination of tenancy set forth
12 in Sections 798.56 and 798.57 shall be followed if the proposed
13 change actually occurs.

14 (5) A notice of a proposed change of use given prior to January
15 1, 1980, that conforms to the requirements in effect at that time
16 shall be valid. The requirements for a notice of a proposed change
17 of use imposed by this subdivision shall be governed by the law in
18 effect at the time the notice was given.

19 (h) The report required pursuant to subdivisions (b) and (i) of
20 Section 65863.7 of the Government Code shall be given to the
21 homeowners or residents at the same time that notice is required
22 pursuant to subdivision (g) of this section.

23 (i) For purposes of this section, "financial institution" means
24 a state or national bank, state or federal savings and loan
25 association or credit union, or similar organization, and
26 mobilehome dealer as defined in Section 18002.6 of the Health
27 and Safety Code or any other organization that, as part of its usual
28 course of business, originates, owns, or provides loan servicing for
29 loans secured by a mobilehome.

